



General Assembly

Amendment

February Session, 2010

LCO No. 4809

HB0549404809HDO

Offered by:

REP. STAPLES, 96th Dist.

SEN. DAILY, 33rd Dist.

To: Subst. House Bill No. **5494**

File No. 587

Cal. No. 366

"AN ACT CONCERNING VARIOUS CHANGES TO TITLE 12."

1 In line 215, strike "and"

2 In line 219, after "Code" insert the following: "; and (iv) that is not a
3 qualified real estate investment trust, as defined in subdivision (3) of
4 subsection (a) of section 12-217"

5 After the last section, add the following and renumber sections and
6 internal references accordingly:

7 "Sec. 501. Section 10-416b of the general statutes is repealed and the
8 following is substituted in lieu thereof (*Effective July 1, 2010, and*
9 *applicable to income years commencing on or after January 1, 2010*):

10 (a) As used in this section, the following terms shall have the
11 following meanings unless the context clearly indicates another
12 meaning:

13 (1) "Commission" means the Connecticut Commission on Culture

14 and Tourism established pursuant to section 10-392;

15 (2) "Certified historic structure" means an historic commercial or
16 industrial property that: (A) Is listed individually on the National or
17 State Register of Historic Places, or (B) is located in a district listed on
18 the National or State Register of Historic Places, and has been certified
19 by the commission as contributing to the historic character of such
20 district;

21 (3) "Certified rehabilitation" means any rehabilitation of a certified
22 historic structure for mixed residential and nonresidential uses
23 consistent with the historic character of such property or the district in
24 which the property is located as determined by regulations adopted by
25 the commission;

26 (4) "Owner" means any person, firm, limited liability company,
27 nonprofit or for-profit corporation or other business entity which
28 possesses title to an historic structure and undertakes the rehabilitation
29 of such structure;

30 (5) "Placed in service" means that substantial rehabilitation work has
31 been completed which would allow for issuance of a certificate of
32 occupancy for the entire building or, in projects completed in phases,
33 for [individual residential units that are] an identifiable portion of the
34 building;

35 (6) "Qualified rehabilitation expenditures" means any costs incurred
36 for the physical construction involved in the rehabilitation of a
37 certified historic structure for mixed residential and nonresidential
38 uses where at least thirty-three per cent of the total square footage of
39 the rehabilitation is placed into service for residential use, excluding:
40 (A) The owner's personal labor, (B) the cost of a new addition, except
41 as required to comply with any provision of the State Building Code or
42 the State Fire Safety Code, and (C) any nonconstruction cost such as
43 architectural fees, legal fees and financing fees;

44 (7) "Rehabilitation plan" means any construction plans and

45 specifications for the proposed rehabilitation of a certified historic
46 structure in sufficient detail for evaluation by compliance with the
47 standards developed under the provisions of subsections (b) to (d),
48 inclusive, of this section; and

49 (8) "Substantial rehabilitation" or "substantially rehabilitate" means
50 the qualified rehabilitation expenditures of a certified historic structure
51 that exceed twenty-five per cent of the assessed value of such
52 structure.

53 (b) (1) The commission shall administer a system of tax credit
54 vouchers within the resources, requirements and purposes of this
55 section for owners rehabilitating certified historic structures.

56 (2) The credit authorized by this section shall be available in the tax
57 year in which the substantially rehabilitated certified historic structure
58 is placed in service. In the case of projects completed in phases, the tax
59 credit shall be prorated to the substantially rehabilitated identifiable
60 portion of the building placed in service. If the tax credit is more than
61 the amount owed by the taxpayer for the year in which the
62 substantially rehabilitated certified historic structure is placed in
63 service, the amount that is more than the taxpayer's tax liability may be
64 carried forward and credited against the taxes imposed for the
65 succeeding five years or until the full credit is used, whichever occurs
66 first.

67 (3) In the case of projects completed in phases, the commission may
68 issue vouchers for the substantially rehabilitated identifiable portion of
69 the building placed in service, regardless of whether such portion
70 contains residential uses.

71 ~~[(3)]~~ (4) Any credits allowed under this section that are provided to
72 multiple owners of certified historic structures shall be passed through
73 to persons designated as partners, members or owners, pro rata or
74 pursuant to an agreement among such persons designated as partners,
75 members or owners documenting an alternative distribution method
76 without regard to other tax or economic attributes of such entity. Any

77 owner entitled to a credit under this section may assign, transfer or
78 convey the credits, in whole or in part, by sale or otherwise to any
79 individual or entity and such transferee shall be entitled to offset the
80 tax imposed under chapter 207, 208, 209, 210, 211 or 212 as if such
81 transferee had incurred the qualified rehabilitation expenditure.

82 (c) The commission shall develop standards for the approval of
83 rehabilitation of certified historic structures for which a tax credit
84 voucher is sought. Such standards shall take into account whether the
85 rehabilitation of a certified historic structure will preserve the historic
86 character of the building.

87 (d) The commission shall adopt regulations, in accordance with
88 chapter 54, to carry out the purposes of this section. Such regulations
89 shall include provisions for the filing of applications, rating criteria
90 and for timely approval by the commission.

91 (e) Prior to beginning any rehabilitation work on a certified historic
92 structure, the owner shall submit (1) a rehabilitation plan to the
93 commission (A) for a determination of whether or not such
94 rehabilitation work meets the standards developed under the
95 provisions of subsections (b) to (d), inclusive, of this section, and (B) if
96 such rehabilitation work is planned to be undertaken in phases, a
97 complete description of each such phase, with anticipated schedules
98 for completion, (2) an estimate of the qualified rehabilitation
99 expenditures, and (3) for projects pursuant to subdivision (2) of
100 subsection (f) of this section, (A) the number of units of affordable
101 housing, as defined in section 8-39a, to be created, (B) the proposed
102 rents or sale prices of such units, and (C) the median income for the
103 municipality where the project is located. In the case of a project
104 pursuant to subdivision (2) of subsection (f) of this section the owner
105 shall submit a copy of data required under subdivision (3) of this
106 subsection to the Department of Economic and Community
107 Development.

108 (f) If the commission certifies that the rehabilitation plan conforms

109 to the standards developed under the provisions of subsections (b) to
110 (d), inclusive, of this section, the commission shall reserve for the
111 benefit of the owner an allocation for a tax credit equivalent to (1)
112 twenty-five per cent of the projected qualified rehabilitation
113 expenditures, or (2) for rehabilitation plans submitted pursuant to
114 subsection (e) of this section on or after June 14, 2007, thirty per cent of
115 the projected qualified rehabilitation expenditures if (A) at least twenty
116 per cent of the units are rental units and qualify as affordable housing,
117 as defined in section 8-39a, or (B) at least ten per cent of the units are
118 individual homeownership units and qualify as affordable housing, as
119 defined in section 8-39a. No tax credit shall be allocated for the
120 purposes of this subdivision unless an applicant has submitted to the
121 commission a certificate from the Department of Economic and
122 Community Development pursuant to subsections [(k) and] (l) and (m)
123 of this section confirming that the project complies with affordable
124 housing requirements under section 8-39a.

125 (g) (1) The owner shall notify the commission that a phase of the
126 rehabilitation has been completed at such time as an identifiable
127 portion of a certified historic structure has been placed in service. Such
128 portion shall not be required to include residential uses, provided the
129 rehabilitation plan submitted pursuant to subsection (e) of this section
130 describes the residential uses that will be part of the rehabilitation, and
131 a schedule for completion of such residential uses. The owner shall
132 provide the commission with documentation of work performed on
133 such portion of such structure and shall submit certification of the
134 costs incurred in such rehabilitation. The commission shall review
135 such rehabilitation and verify its compliance with the rehabilitation
136 plan. Following such verification, the commission shall issue a tax
137 credit voucher as provided in subsection (h) of this section.

138 (2) If the residential portion of the mixed residential and
139 nonresidential uses described in the rehabilitation plan is not
140 completed within the schedule outlined in such plan, the owner shall
141 recapture one hundred per cent of the amount of the credit for which a
142 voucher was issued pursuant to this section on the tax return required

143 to be filed for the income year immediately succeeding the income
144 year during which such residential portion has not been completed, as
145 provided in the rehabilitation plan. The commission, in its discretion,
146 may provide an extension of time for completion of such residential
147 portion, but in no event shall such extension be more than three years.

148 [(g)] (h) Following the completion of rehabilitation of a certified
149 historic structure, the owner shall notify the commission that such
150 rehabilitation has been completed. The owner shall provide the
151 commission with documentation of work performed on the certified
152 historic structure and shall submit certification of the costs incurred in
153 rehabilitating the certified historic structure. The commission shall
154 review such rehabilitation and verify its compliance with the
155 rehabilitation plan. Following such verification, the commission shall
156 issue a tax credit voucher to the owner rehabilitating the certified
157 historic structure or to the taxpayer named by the owner as
158 contributing to the rehabilitation. The tax credit voucher shall be in an
159 amount equivalent to the lesser of the tax credit reserved upon
160 certification of the rehabilitation plan under the provisions of
161 subsection (f) of this section or (1) twenty-five per cent of the actual
162 qualified rehabilitation expenditures, or (2) for projects including
163 affordable housing pursuant to subdivision (2) of subsection (f) of this
164 section, thirty per cent of the actual qualified rehabilitation
165 expenditures. In order to obtain a credit against any state tax due that
166 is specified in subsection [(h)] (i) of this section, the holder of the tax
167 credit voucher shall file the voucher with the holder's state tax return.

168 [(h)] (i) The Commissioner of Revenue Services shall grant a tax
169 credit to a taxpayer holding the tax credit voucher issued under
170 subsections (e) to [(i)] (j), inclusive, of this section against any tax due
171 under chapter 207, 208, 209, 210, 211 or 212 in the amount specified in
172 the tax credit voucher. Such taxpayer shall submit the voucher and the
173 corresponding tax return to the Department of Revenue Services.

174 [(i)] (j) The commission may charge an application fee in an amount
175 not to exceed ten thousand dollars to cover the cost of administering

176 the program established pursuant to this section.

177 ~~[(j)]~~ (k) The aggregate amount of all tax credits which may be
178 reserved by the Commission on Culture and Tourism upon
179 certification of rehabilitation plans under subsections (a) to ~~[(i)]~~ (j),
180 inclusive, of this section shall not exceed fifty million dollars for the
181 fiscal three-year period beginning July 1, 2008, and ending June 30,
182 2011, inclusive, and each fiscal three-year period thereafter. No project
183 may receive tax credits in an amount exceeding ten per cent of such
184 aggregate amount.

185 ~~[(k)]~~ (l) On or before October 1, 2009, and annually thereafter, the
186 Commission on Culture and Tourism shall report the total amount of
187 historic preservation tax credits and affordable housing tax credits
188 reserved for the previous fiscal year under subsections (a) to ~~[(i)]~~ (j),
189 inclusive, of this section, to the joint standing committees of the
190 General Assembly having cognizance of matters relating to commerce
191 and to finance, revenue and bonding. Each such report shall include
192 the following information for each project for which tax credit has been
193 reserved: (1) The total project costs, (2) the value of the tax credit
194 reservation for the purpose of historic preservation, (3) a statement
195 whether the reservation is for mixed-use and if so, the proportion of
196 the project that is not residential, and (4) the number of residential
197 units to be created, and, for affordable housing reservations, the value
198 of the reservation and percentage of residential units that will qualify
199 as affordable housing, as defined in section 8-39a.

200 ~~[(l)]~~ (m) (1) If the total amount of such tax credits reserved in the
201 first fiscal year of a fiscal three-year period is more than sixty-five per
202 cent of the aggregate amount of tax credits reserved under subsections
203 (a) to ~~[(i)]~~ (j), inclusive, of this section, then no additional reservation
204 shall be allowed for the second fiscal year of such fiscal three-year
205 period unless the joint standing committees of the General Assembly
206 having cognizance of matters relating to commerce and to finance,
207 revenue and bonding each vote separately to authorize continuance of
208 tax credit reservations under the program.

209 (2) If the total amount of such credits reserved in the second year of
210 a fiscal three-year period exceeds ninety per cent of the aggregate
211 amount of tax credits reserved under subsections (a) to [(i)] (j),
212 inclusive, of this section, then no additional reservation shall be
213 allowed for the third fiscal year of such fiscal three-year period unless
214 the joint standing committees of the General Assembly having
215 cognizance of matters relating to commerce and to finance, revenue
216 and bonding each vote separately to authorize the continuance of tax
217 credit reservations under the program.

218 (3) Any tax credit reservations issued before a suspension of
219 additional tax credit reservations under subdivisions (1) and (2) of this
220 subsection shall remain in place.

221 Sec. 502. Section 8-37*lll* of the general statutes is repealed and the
222 following is substituted in lieu thereof (*Effective July 1, 2010*):

223 (a) The Commissioner of Economic and Community Development
224 shall review applications for affordable housing tax credits submitted
225 pursuant to subsection (e) of section 10-416b. Upon determination that
226 an application contains affordable housing as required by said section
227 the commissioner shall issue a certificate to that effect. The
228 commissioner shall monitor projects certified under this section to
229 ensure that the affordable housing units are maintained as affordable
230 for a minimum of ten years and may require deed restrictions or other
231 fiscal mechanisms designed to ensure compliance with project
232 requirements. The commissioner may impose a fee in an amount not
233 exceeding two thousand dollars to cover the cost of reviewing
234 applications and monitoring projects that qualify for affordable
235 housing tax credits pursuant to subsections (a) to [(i)] (j), inclusive, of
236 section 10-416b.

237 (b) The Commissioner of Economic and Community Development,
238 in consultation with the Commission on Culture and Tourism, may
239 adopt regulations, pursuant to chapter 54, for monitoring of projects
240 that qualify for affordable housing tax credits pursuant to subsections

241 (a) to [(i)] (j), inclusive, of section 10-416b by the Department of
242 Economic and Community Development, or by local housing
243 authorities, municipalities, other public agencies or quasi-public
244 agencies, as defined in section 1-120, designated by the department.
245 Such regulations shall include provisions for ensuring that affordable
246 units developed under subdivision (3) of subsection (e) of section 10-
247 416b are maintained as affordable for a minimum of ten years and may
248 require deed restrictions or other fiscal mechanisms designed to ensure
249 compliance with project requirements."